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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,293	10/31/2003	Samuel J. Lewis	HES 2003-IP-011770U1	1381
28857	7590	11/20/2006	EXAMINER	
CRAIG W. RODDY HALLIBURTON ENERGY SERVICES P.O. BOX 1431 DUNCAN, OK 73536-0440			MARCANTONI, PAUL D	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/698,293	Applicant(s) LEWIS ET AL.	
	Examiner Paul Marcantoni	Art Unit 1755	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1,5-12,14-30,34-40 and 87-113

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____


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Continuation of 11. does NOT place the application in condition for allowance because: for the reasons set forth above, in the attached sheets, the final rejection, and previous office actions.

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The applicants' 10/17/06 amendment and response after the 8/18/06 first action final rejection is acknowledged. Note that the rejection under 35 USC 103 is the only remaining rejection.

Amendment After Final:

Applicants' 10/17/06 amendment after final of claims has been *entered*.

Applicants have support for "wherein the defoamer is present in an amount sufficient to prevent foaming of the dispersant composition" from original claim 16 (now canceled).

Applicants have support for the limitation "subterranean formation that has been penetrated by a well bore" from claims 87 and 90. Thus, no new issues were raised because these were already limitations present in the claims before final rejection.

Amendment to Specification:

Applicants' 10/17/06 amendment to the specification has been *entered*.

Obviousness-Type Double Patenting: (Withdrawn)

The ODP rejection of claims 1-5, 12-14, 14-30, 34-40, and 87-113 over claims 14 and 52 of Reddy et al. '004 B2 and '730 B2 alone or in view of Cattenach (US '784 or FR '231) has been *withdrawn*.

Request to Withdraw Finality of First Action Final

The applicants' request to withdraw the finality is noted but is respectfully denied. The applicants cite MPEP 706.07(b) regarding proper first action final rejections and note that the claims to a new application may be finally rejected if it is a continuing application (which it is), all claims drawn to the same invention (which they are) and would have been properly finally rejected on the grounds and art of record in the next office action if they had been entered in the earlier application (also meets this). Thus, all conditions are met for first action final rejection and the rejection is proper.

The applicants point out that amended independent claims 1,30,90 include the limitation that the dispersant composition further comprising a defoamer. Yet this was a pending claim because that is what was set forth in *original claim 13* (dispersant composition further comprising a defoamer) and this was addressed by the same prior art used in the rejection. The applicants only canceled claim 13 and moved the ~~limitations~~ ^{limitations} of the dependent claims to their independent claims.

The applicants also state that the examiner cited seven new references not previously of record. In rebuttal, these references are only cited of interest. They are cited of interest to show that numerous prior art teaches the use of defoamers in well cements. These cited seven references are not used in the examiner's rejection. In fact, these references merely teach what the examiner already used in his combination rejection. Gopalkrishnan '128 teaches it is old in the art to add defoamers to well cement compositions (e.g. polypropylene glycol-col.6, line 54). The examiner has no

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need to thus use these other references as the teaching of adding defoamers is already set forth by Gopalkrishnan.

As can be seen above, the rejection is no different than the previous rejection and all art was the same (Please refer to the 1/25/2006 final rejection and it can be seen that the rejection is no different than the rejection presently set forth). It is thus seen that the first action final rejection is proper and the request to withdraw it is respectfully denied.

New Matter-Objection to Specification (Withdrawn)

Applicants' 10/17/06 amendment to the specification has been *entered* and it overcomes examiner's previous objection. Objection to specification thus is withdrawn.

New Matter-Claims: (Withdrawn)

The new matter rejection of claims 87-113 is withdrawn.

35 USC 112 Second Paragraph: (Withdrawn)

35 USC 112 second paragraph rejection is withdrawn. Applicants did remove the term "desired" from their claims. Applicants do define for the record –low density cement—to signify that it includes those cement compositions with a density of 12.5 lb./gallon or less--. Thus, as low density is specifically defined this rejection has been withdrawn.

35 USC 103:

Claims 1,5-12,14-30,34-40, and 87-113 are rejected under 35 USC 103(a) as being unpatentable over Sugama '395, Gay et al. '295 B1, Etherton (EP 1103533) alone or in view of Chatterji '699 or '738, Bour et al. '565, Cattnach (US '784 or FR '231), Gopalkrishnan '128 or DiLullo Arias '809 B1.

Note: Neely Jr. '661 B2, that teaches a curable cement coating composition for steel and thus has been withdrawn.

The examiner maintains the 35 USC 103 rejection is proper for the reasons set forth in the final rejection and earlier office actions using this prior art rejection. The combination rejection is proper and there is motivation for combination as set forth in these earlier office actions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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